

IN THE DISTRICT COURT OF THE UNITED STATES  
DISTRICT OF NEBRASKA

SONIA MARTINEZ,	)	CASE NO. <u>4:10-cv-3091</u>
	)	
Plaintiff,	)	
	)	
vs.	)	COMPLAINT, REQUEST FOR
	)	JURY TRIAL AND PRAECIPE
RENE A. GARCIA, Individually and In	)	
His Official Capacity As An Employee of	)	
Saline County, Nebraska; Sheriff ALAN	)	
MOORE, Individually and in Official	)	
Capacity as Director of the Saline County	)	
Jail, and SALINE COUNTY, Nebraska, a	)	
Subdivision of the State of Nebraska.	)	
	)	
Defendants.	)	

INTRODUCTION

1. This action involves the violation of the plaintiff's rights by the defendants while the plaintiff was an inmate at the jail controlled and operated by Defendant Saline County in Wilber, Nebraska. Defendant Garcia, under the supervision of Defendant Moore failed to properly and adequately safeguard the plaintiff's rights resulting in illegal and wrongful sexual conduct between Defendant Garcia and the plaintiff.

JURISDICTION

2. This court has jurisdiction over this matter because it involves a federal question implicating the Fourth Amendment of the United States Constitution, the Eighth Amendment of the United States Constitution, and statutory law codified at 42 U.S.C. § 1983.

### VENUE

3. At all times relevant Plaintiff Sonia Martinez is an adult citizen in the United States of America and a resident of the state of Nebraska.

4. The Defendant Saline County, Nebraska is a governmental entity which owned and operated at all times relevant herein the Saline County Jail in Wilber, Saline County, Nebraska.

5. Defendant Rene A. Garcia at all times relevant was a correctional officer and an employee of the Saline County, Nebraska working as a corrections guard at said facility. He is sued individually and in his official capacity.

6. At the time of the incident which is the subject matter of this action, Defendant Alan Moore was the Sheriff of Saline County, Nebraska. He is sued individually and in his official capacity as Director of the Saline County Jail.

7. The venue lies with this Court pursuant to 28 U.S.C. §1391 as all the Defendants are residents of the state of Nebraska and all the acts or omissions which give rise to this cause of action occurred within the state of Nebraska.

### CAUSE OF ACTION

8. At all times relevant each Defendant was under a duty to run its activities in a lawful manner so as to preserve to its citizens such as the Plaintiff, the rights, privileges and immunities guaranteed to them by the Constitution and the laws of both the United States and the State of Nebraska. Further Defendants Garcia and Moore were under a duty to run their jails and correctional centers in a lawful manner so as to preserve the rights, privileges and immunities guaranteed and

secured to citizens such as the Plaintiff by the Constitution and the laws of both the United States and the State of Nebraska.

9. This cause of action arises out of a series of sexual contacts which occurred between the Plaintiff and Defendant Garcia on or between February 29, 2008 and July 2008 in violation of Neb. Rev. Stat. § 28-322, and in violation of the plaintiff's civil rights.

10. Each and all of the acts of the Defendants were done by each of said Defendant under the color and pretense of the Constitution, statutes, ordinances, regulations, customs and usages of the United States of America and the State of Nebraska and under the authority of its law enforcement offices of said state.

11. Between the 29<sup>th</sup> day of February, 2008 and July 1, 2008, the Plaintiff was subjected to sexual contact by Defendant Garcia who at all times was acting in the course and scope of his employment with Defendant State of Nebraska and was under the direct supervision of the other Defendants herein. During this time, Plaintiff was held by the Defendants in the Saline County Jail in Wilber, Nebraska. Plaintiff's status was that of a "Federal criminal Defendant" who was denied pre-trial release and was waiting for further proceedings in Federal Court.

12. Defendant Garcia's conduct was unjustified, illegal, unnecessary, and under the circumstances then and there existing, posed an unreasonable risk of serious bodily injury and psychological injury to the Plaintiff in violation of the rights secured to the Plaintiff by the Fourth Amendment of the United States Constitution, the Eighth Amendment of the United States Constitution, 42 U.S.C. Section 1983 and Neb. Rev. Stat. § 20-148. Defendant Garcia committed the above described actions

and/or omissions under the color of law and by virtue of his authority as a corrections officer of the Saline County, Nebraska and substantially deprived the Plaintiff of her rights, privileges, and immunities guaranteed to her as a citizen of the United States in violation of 42 U.S.C. 1983 and deprived the Plaintiff of her rights guaranteed to her by the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution including but not limited to:

- a. Freedom of expression;
- b. Freedom from unlawful contact with her person;
- c. Freedom from deprivation of liberty without due process;
- d. Freedom from cruel and unusual punishment; and
- f. Freedom from summary punishment.

13. The inaction of the other Defendants who failed to properly supervise, train, educate, or discipline its correctional officers such as Defendant Garcia was unjustified, illegal, unnecessary, and under the circumstances then and there existing, posed an unreasonable risk of serious bodily injury and psychological injury to the Plaintiff in violation of the rights secured to the Plaintiff by the Fourth Amendment of the United States Constitution, the Eighth Amendment of the United States Constitution, 42 U.S.C. Section 1983 and Neb. Rev. Stat. § 20-148. These defendants failed to protect the plaintiff who was under their sole control and custody.

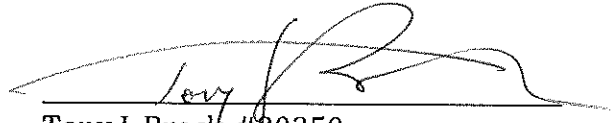
14. As a direct and proximate result of Defendant Garcia's acts, the Plaintiff was harmed. She was subjected to wrongful and illegal sexual contact and suffered past, present and future pain and suffering, mental anguish, humiliation, and loss of

reputation. She was denied the rights afforded her under the federal constitution, federal civil rights laws such as 42 U.S.C. Section 1983, and under state law.

15. WHEREFORE Plaintiff prays for general damages pursuant to 42 U.S.C. 1983 against each Defendant; punitive damages against each Defendant; and for attorney's fees and costs of this action and for such other and further relief as the Court deems just.

Dated: 5-13-10

SONIA MARTINEZ, PLAINTIFF



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#### REQUEST FOR JURY TRIAL

Plaintiff requests a jury trial in Lincoln, Nebraska.

